

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

v.

BETH CARTER, M.D., et al.,

Defendants.

Case No. 1:20-cv-11682

Honorable Thomas L. Ludington
United States District Judge

Honorable Anthony P. Patti
United States Magistrate Judge

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTIONS TO DISMISS, DENYING AS MOOT DEFENDANTS'
MOTION TO WITHDRAW AND TO STAY CASE, AND DISMISSING CASE
WITHOUT PREJUDICE, COSTS, OR FEES**

Plaintiff Daniel Horacek, while incarcerated at the Carson City Correctional Facility, filed a *pro se* complaint under 42 U.S.C. § 1983 alleging 16 medical and corrections staff members at 3 Michigan prisons were deliberately indifferent to his medical needs in violation of the Eighth Amendment. ECF No. 1. Defendants filed two motions to dismiss, ECF No. 74; 76, followed by a motion to stay the case and to withdraw one defense counsel, ECF No. 78.

On March 9, 2023, Magistrate Judge Anthony P. Patti issued a report recommending that the motions to dismiss be granted because Plaintiff has abandoned his case. ECF No. 80. Judge Patti provided 14 days to object, but the parties did not do so. They have therefore forfeited their right to appeal Judge Patti's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). There is no clear error in the report.

Accordingly, it is **ORDERED** that Magistrate Judge Patti's Report and Recommendation, ECF No. 80, is **ADOPTED**.

Further, it is **ORDERED** that Defendants' Motion to Dismiss, ECF No. 74, is **GRANTED**.

Further, it is **ORDERED** that Defendants' Motion to Dismiss, ECF No. 76, is **GRANTED**.

Further, it is **ORDERED** that Defendants' Motion to Stay Case and to Withdraw Attorney, ECF No. 78, is **DENIED AS MOOT**.

Further, it is **ORDERED** that the above-captioned case is **DISMISSED WITHOUT PREJUDICE**, costs, or fees.

This is a final order and closes the above-captioned case.

Dated: April 24, 2023

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge